

AMENDED IN ASSEMBLY MAY 7, 2014

AMENDED IN ASSEMBLY APRIL 22, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 1863**

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**Introduced by Assembly Member Jones**  
**(Coauthor: Assembly Member Cooley)**

February 19, 2014

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An act to amend Sections 1796.12, 1796.14, *1796.17*, 1796.22, 1796.29, 1796.33, 1796.34, 1796.35, 1796.37, 1796.38, 1796.39, 1796.41, 1796.42, 1796.44, 1796.45, 1796.51, 1796.52, 1796.53, 1796.55, 1796.61, and 1769.63 of, and to add Sections ~~1796.18, 1796.40, 1796.40~~ and 1796.50 to, the Health and Safety Code, relating to public health.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1863, as amended, Jones. Home Care Services Consumer Protection Act.

Existing law establishes the Home Care Services Consumer Protection Act (the act), which provides, on and after January 1, 2015, for the licensure and regulation of home care organizations, as defined, by the State Department of Social Services, and for the registration of home care aides. Violation of the act is a misdemeanor. Existing law requires background clearances for home care aides and home care organizations, as specified. Existing law authorizes any individual that possesses, among other things, a valid Alien Registration Card, and who has submitted an application, to initiate a background examination to be either a registered home care aide or to be a licensed home care organization.

This bill, commencing January 1, 2016, would make the provisions of the act applicable to *domestic home care aide referral agencies organizations*, as defined, including licensure, fees, enforcement and fines, and regulation of registered home care aides having agreements with those ~~agencies organizations~~. By expanding the scope of a crime, this bill would impose a state-mandated local program. The bill would authorize any individual that possesses either a valid Alien Registration Receipt Card or valid Permanent Resident Card to initiate a background examination to be either a registered home care aide or to be a licensed home care organization *or a domestic home care aide referral organization*.

Existing law requires the State Department of Social Services to post any proposed regulations promulgated for purposes of implementing the act on its public Internet Web site no earlier than 10 calendar days prior to the effective date of the proposed rule, as specified.

This bill would instead require the State Department of Social Services to post any proposed regulations promulgated on its public Internet Web site no later than 90 calendar days prior to the effective date of the proposed rule, as specified.

This bill would also correct an erroneous cross-reference.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1796.12 of the Health and Safety Code
- 2 is amended to read:
- 3 1796.12. For purposes of this chapter, the following definitions
- 4 shall apply:
- 5 (a) "Affiliated home care aide" means an individual, 18 years
- 6 of age or older, who is employed by a home care organization to
- 7 provide home care services to a client and is listed on the home
- 8 care aide registry.
- 9 (b) "Child" or "children" means an individual or individuals
- 10 under 18 years of age.

1 (c) “Client” means an individual who receives home care  
2 services from a registered home care aide.

3 (d) “Department” means the State Department of Social  
4 Services.

5 (e) “Director” means the Director of Social Services.

6 (f) “*Domestic home care aide referral organization*” means an  
7 employment agency, as defined in Section 1812.5095 of the Civil  
8 Code that provides referrals home care services provided by a  
9 registered home care aide to a client, and is licensed pursuant to  
10 this chapter.

11 (g) “*Domestic home care aide referral organization applicant*”  
12 means an individual, 18 years of age or older, or a firm,  
13 partnership, corporation, limited liability company, joint venture,  
14 association, or other entity that is requesting to become a domestic  
15 home care aide referral organization licensee and the department  
16 has received and is processing the complete domestic home care  
17 aide referral organization application and nonrefundable  
18 application fee.

19 (h) “*Domestic home care aide referral organization*  
20 *application*” means the official form, designated by the department,  
21 to request to become a licensed domestic home care aide referral  
22 organization.

23 (i) “*Domestic home care aide referral organization licensee*”  
24 means an individual, 18 years of age or older, firm, partnership,  
25 corporation, limited liability company, joint venture, association,  
26 or other entity having the authority and responsibility for the  
27 operation of a licensed domestic home care aide referral  
28 organization.

29 ~~(f)~~

30 (j) “Family member” means any spouse, by marriage or  
31 otherwise, child or stepchild, by natural birth or by adoption,  
32 parent, brother, sister, half brother, half sister, parent-in-law,  
33 brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first  
34 cousin, or any person denoted by the prefix “grand” or “great,” or  
35 the spouse of any of these persons, even if the marriage has been  
36 terminated by death or dissolution.

37 ~~(g)~~

38 (k) “Home care aide applicant” means an individual, 18 years  
39 of age or older, who is requesting to become an registered home

1 care aide and the department has received and is processing the  
2 individual's complete home care aide application and fees.

3 ~~(h)~~

4 (l) "Home care aide application" means the official form,  
5 designated by the department, to request to become a registered  
6 home care aide.

7 ~~(i)~~

8 (m) "Home care aide registry" means a department-established  
9 and department-maintained Internet Web site of registered home  
10 care aides and home care aide applicants, which includes all of the  
11 following: the individual's name, registration number, registration  
12 status, registration expiration date, and, if applicable, the home  
13 care organization to which the affiliated home care aide or affiliated  
14 home care aide applicant is associated.

15 ~~(j)~~

16 (n) "Home care organization" means an individual, 18 years of  
17 age or older, firm, partnership, corporation, limited liability  
18 company, joint venture, association, or other entity that arranges  
19 for home care services by an affiliated home care aide to a client,  
20 and is licensed pursuant to this chapter.

21 ~~(k)~~

22 (o) "Home care organization application" means the official  
23 form, designated by the department, to request to become a licensed  
24 home care organization.

25 ~~(t)~~

26 (p) "Home care organization licensee" means an individual, 18  
27 years of age or older, firm, partnership, corporation, limited liability  
28 company, joint venture, association, or other entity having the  
29 authority and responsibility for the operation of a licensed home  
30 care organization.

31 ~~(m) "Home care referral agency" means an employment agency,~~  
32 ~~as defined in Section 1812.5095 of the Civil Code that arranges~~  
33 ~~for home care services provided by a registered home care aide to~~  
34 ~~a client, and is licensed pursuant to this chapter.~~

35 ~~(n) "Home care referral agency applicant" means an individual,~~  
36 ~~18 years of age or older, or a firm, partnership, corporation, limited~~  
37 ~~liability company, joint venture, association, or other entity that~~  
38 ~~is requesting to become a home care referral agency licensee and~~  
39 ~~the department has received and is processing the complete home~~

1 ~~care referral agency application and nonrefundable application~~  
2 ~~fee.~~

3 ~~(e) “Home care referral agency application” means the official~~  
4 ~~form, designated by the department, to request to become a licensed~~  
5 ~~home care referral agency.~~

6 ~~(p) “Home care referral agency licensee” means an individual,~~  
7 ~~18 years of age or older, firm, partnership, corporation, limited~~  
8 ~~liability company, joint venture, association, or other entity having~~  
9 ~~the authority and responsibility for the operation of a licensed~~  
10 ~~home care referral agency.~~

11 (q) “Home care services” means nonmedical services and  
12 assistance provided by a registered home care aide to a client who,  
13 because of advanced age or physical or mental disability, cannot  
14 perform these services. These services enable the client to remain  
15 in his or her residence and include, but are not limited to, assistance  
16 with the following: bathing, dressing, feeding, exercising, personal  
17 hygiene and grooming, transferring, ambulating, positioning,  
18 toileting and incontinence care, assisting with medication that the  
19 client self-administers, housekeeping, meal planning and  
20 preparation, laundry, transportation, correspondence, making  
21 telephone calls, shopping for personal care items or groceries, and  
22 companionship. This subdivision shall not authorize a registered  
23 home care aide to assist with medication that the client  
24 self-administers that would otherwise require administration or  
25 oversight by a licensed health care professional.

26 (r) “Independent home care aide” means an individual, 18 years  
27 of age or older, who is not employed by a home care organization,  
28 but who is listed on the home care aide registry and is providing  
29 home care services through a direct agreement with a client.

30 (s) “Registered home care aide” means an affiliated home care  
31 aide or independent home care aide, 18 years of age or older, who  
32 is listed on the home care aide registry. *A registered home care*  
33 *aide may work as an affiliated home care aide and as an*  
34 *independent home care aide, but not at the same time.*

35 SEC. 2. Section 1796.14 of the Health and Safety Code is  
36 amended to read:

37 1796.14. (a) Individuals who are not employed by a home care  
38 organization but who provide home care services to a client may  
39 be listed on the home care aide registry.

1 (b) An affiliated home care aide *and independent home care*  
2 *aide* shall be listed on the home care aide registry prior to providing  
3 home care services to a client. A home care aide shall be listed on  
4 the registry prior to being referred by a home care referral agency  
5 to a client.

6 (c) An individual providing home care services to a child is  
7 exempt from any requirement to be listed on the home care aide  
8 registry if the individual is one of the following:

9 (1) A family member of the child.

10 (2) A guardian of the child.

11 (3) A conservator of the child.

12 (4) A foster parent of the child, in a foster family home, as  
13 defined in paragraph (5) of subdivision (a) of Section 1502, or a  
14 certified family home, as defined in subdivision (d) of Section  
15 1506.

16 (5) Nonrelative extended family member, as defined in Section  
17 362.7 of the Welfare and Institutions Code.

18 (6) Providing home care services in a facility in which only  
19 Indian children who are eligible under the federal Indian Child  
20 Welfare Act (25 U.S.C. 1901 et seq.) are placed and is one of the  
21 following:

22 (A) An extended family member of the Indian child, as defined  
23 in Section 1903 of Title 25 of the United States Code.

24 (B) A foster home that is licensed, approved, or specified by  
25 the Indian child's tribe pursuant to Section 1915 of Title 25 of the  
26 United States Code.

27 (7) Providing home care services as part of his or her job duties  
28 through one of the following entities:

29 (A) A home health agency licensed under Chapter 8  
30 (commencing with Section 1725).

31 (B) A hospice licensed under Chapter 8.5 (commencing with  
32 Section 1745).

33 (C) A health facility licensed under Chapter 2 (commencing  
34 with Section 1250).

35 (D) Any clinic licensed under Sections 1204 or 1204.1.

36 (E) A county providing in-home supportive services pursuant  
37 to Article 7 (commencing with Section 12300) of Chapter 3 of  
38 Part 3 of Division 9 of the Welfare and Institutions Code, without  
39 regard to whether the county provides these services as a public

1 authority or through a nonprofit consortium established pursuant  
2 to Section 12301.6 of the Welfare and Institutions Code.

3 (F) A home medical device retail facility licensed under Section  
4 111656.

5 (G) An organization vendored or contracted through a regional  
6 center or the State Department of Developmental Services pursuant  
7 to the Lanterman Developmental Disabilities Services Act  
8 (Division 4.5 (commencing with Section 4500) of the Welfare and  
9 Institutions Code) and the California Early Intervention Services  
10 Act (Title 14 (commencing with Section 95000) of the Government  
11 Code) to provide services and supports for persons with  
12 developmental disabilities, as defined in Section 4512 of the  
13 Welfare and Institutions Code, when funding for those services is  
14 provided through the State Department of Developmental Services  
15 and more than 50 percent of the recipients of the home care services  
16 provided by the organization are persons with developmental  
17 disabilities.

18 (H) A community care facility as licensed under Chapter 3  
19 (commencing with Section 1500), a residential care facility for  
20 persons with special health care needs licensed under Chapter 3.01  
21 (commencing with Section 1568.01), a residential care facility for  
22 the elderly licensed under Chapter 3.2 (commencing with Section  
23 1569), or a child day care licensed under Chapter 3.4 (commencing  
24 with Section 1596.70).

25 (I) Any alcoholism or drug abuse recovery or treatment facility  
26 as defined by Section 11834.02.

27 (J) Any other entity providing services similar to those described  
28 in this paragraph, as determined by the director.

29 (8) Providing services authorized pursuant to Section 2731 of  
30 the Business and Professions Code.

31 (d) (1) Home care aides shall not include individuals who are  
32 providing home care services as part of their job duties through  
33 one of the following entities:

34 (A) Services authorized to be provided by a licensed home  
35 health agency under Chapter 8 (commencing with Section 1725).

36 (B) Services authorized to be provided by a licensed hospice  
37 pursuant to Chapter 8.5 (commencing with Section 1745).

38 (C) Services authorized to be provided by a licensed health  
39 facility pursuant to Chapter 2 (commencing with Section 1250).

(D) In-home supportive services provided pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code.

(E) Services authorized to be provided by one of the following:

(i) A licensed residential care facility for the elderly pursuant to Chapter 3.2 (commencing with Section 1569).

(ii) A licensed community care facility pursuant to Chapter 3 (commencing with Section 1500).

(iii) A licensed residential care facility for persons with chronic life-threatening illness pursuant to Chapter 3.01 (commencing with Section 1568.01).

(iv) A licensed facility, pursuant to the California Child Day Care Act (Chapter 3.4 (commencing with Section 1596.70)), which includes day care centers under Chapter 3.5 (commencing with Section 1596.90) and family day care homes under to Chapter 3.6 (commencing with Section 1597.30).

(2) Home care aides shall not include individuals providing services authorized to be provided pursuant to Section 2731 of the Business and Professions Code.

*SEC. 3. Section 1796.17 of the Health and Safety Code is amended to read:*

1796.17. A home care organization or a domestic home care aide referral organization shall not include the following:

(a) A home health agency licensed under Chapter 8 (commencing with Section 1725).

(b) A hospice licensed under Chapter 8.5 (commencing with Section 1745).

(c) A health facility licensed under Chapter 2 (commencing with Section 1250).

(d) A county providing in-home supportive services pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code, without regard to whether the county provides these services as a public authority or through a nonprofit consortium established pursuant to Section 12301.6 of the Welfare and Institutions Code.

(e) A home medical device retail facility licensed under Section 111656.

(f) An organization vendored or contracted through a regional center or the State Department of Developmental Services pursuant to the Lanterman Developmental Disabilities Services Act



(Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and the California Early Intervention Services Act (Title 14 (commencing with Section 95000) of the Government Code) to provide services and supports for persons with developmental disabilities, as defined in Section 4512 of the Welfare and Institutions Code, when funding for those services is provided through the State Department of Developmental Services and more than 50 percent of the recipients of the home care services provided by the organization are persons with developmental disabilities.

(g) An employment agency, as defined in Section 1812.5095 of the Civil Code, that procures, offers, refers, provides, or attempts to provide an independent home care aide who provides home care services clients, *except that an employment agency meeting this description may be a domestic home care aide referral organization.*

(h) A residential care facility for the elderly licensed under Chapter 3.2 (commencing with Section 1569).

(i) A community care facility licensed under Chapter 3 (commencing with Section 1500), or a residential care facility for persons with chronic life-threatening illness licensed under Chapter 3.01 (commencing with Section 1568.01).

(j) An person or organization performing activities that fall under the jurisdiction of a child day care facility licensed under Chapter 3.4 (commencing with Section 1596.70), a day care center licensed under Chapter 3.5 (commencing with Section 1596.60), or a family day care home licensed under Chapter 3.6 (commencing with Section 1597.30).

~~SEC. 3. Section 1796.18 is added to the Health and Safety Code, immediately following Section 1796.17, to read:~~

~~1796.18. (a) A home care referral agency does not include any of the following:~~

~~(1) A home health agency licensed under Chapter 8 (commencing with Section 1725);~~

~~(2) A hospice licensed under Chapter 8.5 (commencing with Section 1745);~~

~~(3) A health facility licensed under Chapter 2 (commencing with Section 1250);~~

~~(4) A county providing in-home supportive services pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of~~

1 Part 3 of Division 9 of the Welfare and Institutions Code, without  
2 regard to whether the county provides these services as a public  
3 authority or through a nonprofit consortium established pursuant  
4 to Section 12301.6 of the Welfare and Institutions Code.

5 (5) A home medical device retail facility licensed under Section  
6 111656.

7 (6) An organization vendored or contracted through a regional  
8 center or the State Department of Developmental Services pursuant  
9 to the Lanterman Developmental Disabilities Services Act  
10 (Division 4.5 (commencing with Section 4500) of the Welfare and  
11 Institutions Code) and the California Early Intervention Services  
12 Act (Title 14 (commencing with Section 95000) of the Government  
13 Code) to provide services and supports for persons with  
14 developmental disabilities, as defined in Section 4512 of the  
15 Welfare and Institutions Code, when funding for those services is  
16 provided through the State Department of Developmental Services  
17 and more than 50 percent of the recipients of the home care services  
18 provided by the organization are persons with developmental  
19 disabilities.

20 (7) A home care organization.

21 (8) A community care facility licensed under Chapter 3  
22 (commencing with Section 1500), or a residential care facility for  
23 persons with chronic life-threatening illness licensed under Chapter  
24 3.01 (commencing with Section 1568.01), a residential care facility  
25 for the elderly licensed under Chapter 3.2 (commencing with  
26 Section 1569), or a facility licensed under the California Child  
27 Day Care Act (Chapter 3.4 (commencing with Section 1596.70)),  
28 which includes day care centers under Chapter 3.5 (commencing  
29 with Section 1596.90) and family day care homes pursuant to  
30 Chapter 3.6 (commencing with Section 1597.30).

31 (9) An alcoholism or drug abuse recovery or treatment facility  
32 as defined in Section 11834.02.

33 (10) Providing services authorized pursuant to Section 2731 of  
34 the Business and Professions Code.

35 (11) A clinic licensed under Section 1204 or 1204.1.

36 (12) A nonrelative extended family member, as defined in  
37 Section 362.7 of the Welfare and Institutions Code.

38 (13) A facility that provides home care services in which only  
39 Indian children who are eligible under the federal Indian Child

1 ~~Welfare Act (25 U.S.C. 1901 et seq.) are placed and is one of the~~  
2 ~~following:~~

3 ~~(A) An extended family member of the Indian child, as defined~~  
4 ~~in Section 1903 of Title 25 of the United States Code.~~

5 ~~(B) A foster home that is licensed, approved, or specified by~~  
6 ~~the Indian child's tribe pursuant to Section 1915 of Title 25 of the~~  
7 ~~United States Code.~~

8 ~~(b) In the event of conflict between this chapter and a provision~~  
9 ~~listed in subdivision (a), the provision in subdivision (a) shall~~  
10 ~~control.~~

11 SEC. 4. Section 1796.22 of the Health and Safety Code is  
12 amended to read:

13 1796.22. Any individual who has submitted an application and  
14 who possesses any one of the following identification cards may  
15 initiate a background examination to be a registered home care  
16 aide:

17 (a) A valid California driver's license.

18 (b) A valid identification card issued by the Department of  
19 Motor Vehicles.

20 (c) A valid Alien Registration Receipt Card or valid Permanent  
21 Resident Card.

22 (d) In the case of a person living in a state other than California,  
23 a valid numbered photo identification card issued by an agency of  
24 the state other than California.

25 SEC. 5. Section 1796.29 of the Health and Safety Code is  
26 amended to read:

27 1796.29. The department shall do both of the following in the  
28 administration of the home care aide registry:

29 (a) Establish and maintain on the department's Internet Web  
30 site the registry of registered home care aides and home care aide  
31 applicants.

32 (1) To expedite the ability of a consumer to search and locate  
33 a registered home care aide or home care aide applicant, the  
34 Internet Web site shall enable consumers to look up the registration  
35 status by providing the registered home care aide's or home care  
36 aide applicant's name, registration number, registration status, and  
37 registration expiration date.

38 (2) The Internet Web site shall not provide any additional,  
39 individually identifiable information about a registered home care  
40 aide or home care aide applicant. The department may request and

1 may maintain additional information for registered home care aides  
2 or home care aide applicants, as necessary for the administration  
3 of this chapter, which shall not be publicly available on the home  
4 care aide registry.

5 (3) *The Internet Web site shall distinguish between an affiliated*  
6 *and independent home care aide for purposes of informing*  
7 *potential consumers and the public of the differences between the*  
8 *two classifications.*

9 (b) Update the home care registry upon receiving notification  
10 from a home care organization *or a domestic home care aide*  
11 *referral organization* that ~~an affiliated~~ the home care aide is no  
12 longer employed by *or associated with* the home care organization.

13 ~~(c) To expedite the ability of a home care referral agency to~~  
14 ~~search and locate a registered home care aide or home care aide~~  
15 ~~applicant, the registry shall enable home care referral agencies to~~  
16 ~~look up registration status by providing the registered home care~~  
17 ~~aide or home care aide applicant's name, registration number,~~  
18 ~~registration status, and registration expiration date.~~

19 SEC. 6. Section 1796.33 of the Health and Safety Code is  
20 amended to read:

21 1796.33. An individual who has submitted an application and  
22 who possesses any one of the following identification cards may  
23 initiate a background examination to be a licensed home care  
24 organization or a licensed *domestic home care aide referral agency*  
25 *organization*:

26 (a) A valid California driver's license.

27 (b) A valid identification card issued by the Department of  
28 Motor Vehicles.

29 (c) A valid Alien Registration Receipt Card or valid Permanent  
30 Resident Card.

31 (d) In the case of a person living in a state other than California,  
32 a valid numbered photo identification card issued by an agency of  
33 the state other than California.

34 SEC. 7. Section 1796.34 of the Health and Safety Code is  
35 amended to read:

36 1796.34. (a) In order to obtain a home care organization license  
37 or a *domestic home care aide referral agency organization* license,  
38 the following individual or individuals shall consent to the  
39 background examination described in Section 1796.23:

1 (1) The owner or owners of the applicant, if the owners are  
2 individuals.

3 (2) If the owner of the applicant is a corporation, limited liability  
4 company, joint venture, association, or other entity, an individual  
5 having a 10-percent or greater interest in that entity.

6 (b) A person who is a current licensee or employee in a facility  
7 licensed by the department, a certified foster parent, a certified  
8 administrator, or a registered TrustLine provider may transfer his  
9 or her current criminal record clearance or exemption for purposes  
10 of licensure ~~as a home care referral agency under this chapter~~  
11 pursuant to subdivision (h) of Section 1522. The person shall,  
12 instead, submit to the department, along with the person's  
13 application, a copy of his or her identification card, as required  
14 pursuant to Section 1796.33, and a ~~signed~~ declaration verifying  
15 the person's identity *that is signed under penalty of perjury*.

16 SEC. 8. Section 1796.35 of the Health and Safety Code is  
17 amended to read:

18 1796.35. (a) A person or a private or public organization, with  
19 the exception of a county providing in-home supportive services  
20 pursuant to Article 7 (commencing with Section 12300) of Chapter  
21 3 of Part 3 of Division 9 of the Welfare and Institutions Code, and  
22 the exceptions provided for in subdivision (c), shall not do any of  
23 the following, unless it is a licensed home care organization under  
24 this chapter:

25 (1) Represent himself, herself or itself to be a home care  
26 organization by name, advertising, soliciting, or any other  
27 presentments to the public, or in the context of services within the  
28 scope of this chapter, imply that he, she, or it is licensed to provide  
29 those services or to make any reference to employee bonding in  
30 relation to those services.

31 (2) Use the terms "home care organization," "home care,"  
32 "in-home care," or any combination of those terms, within its  
33 name.

34 (b) A person or a private or public organization, with the  
35 exception of a county providing in-home supportive services  
36 pursuant to Article 7 (commencing with Section 12300) of Chapter  
37 3 of Part 3 of Division 9 of the Welfare and Institutions Code, and  
38 the exceptions provided for in subdivision (c), shall not do any of  
39 the following, unless it is a licensed *domestic* home care *aide*  
40 ~~referral agency~~ *organization* under this chapter:

(1) Represent himself, herself, or itself to be a *domestic* home care *aide* referral~~agency~~ *organization* by name, advertising, soliciting, or any other presentment to the public, or in the context of services within the scope of this chapter, imply that he, she, or it is licensed to provide those services or to make any reference to employment agency or bonding in relation to those services.

(2) Use the terms~~—home~~ “*domestic home* care *aide* referral ~~agency,~~” *organization,*” “home care~~—agency,~~” *organization,*” “home care,” “in-home care,” or any combination of those terms, within its name.

(c) (1) This section does not apply to a county providing in-home supportive services pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code.

(2) Subdivision (a) does not apply to a *domestic* home care *aide* referral~~agency~~ *organization*.

(3) Subdivision (b) does not apply to a home care organization.

SEC. 9. Section 1796.37 of the Health and Safety Code is amended to read:

1796.37. (a) A home care organization or *domestic* home care *aide* referral~~agency~~ *organization* that has its principal place of business in another state, in addition to the other requirements of this chapter, before arranging for home care services provided by a registered home care aide to a client in the state, shall comply with all of the following:

(1) Have an office in California.

(2) Maintain all pertinent records of the operation in California at the California office. All records shall be available to review, copy, audit, and inspect by the licensing agency.

(b) If the home care organization or *domestic* home care *aide* referral~~agency~~ *organization* is a foreign corporation, foreign limited liability company, foreign limited partnership, foreign association, or a foreign limited liability partnership, as defined in Sections 170, 171, 171.03, 171.05, and 16101 of the Corporations Code, before arranging for home care services provided by a registered home care aide to a client in the state, the home care organization or *domestic* home care *aide* referral~~agency~~ *organization* shall have an office in California and shall comply with both of the following:

1 (1) Register with the Secretary of State to conduct intrastate  
2 business in California.

3 (2) Maintain all pertinent records of the operation in California  
4 at the California office. All records shall be available to review,  
5 copy, audit, and inspect by the licensing agency.

6 SEC. 10. Section 1796.38 of the Health and Safety Code is  
7 amended to read:

8 1796.38. (a) The department shall issue a home care  
9 organization license to an individual or other entity that satisfies  
10 all of the requirements set forth in this chapter, including all of the  
11 following:

12 (1) Files a home care organization application, including the  
13 fees required pursuant to Section 1796.49.

14 (2) Submits proof of general and professional liability insurance  
15 in the amount of at least one million dollars (\$1,000,000) per  
16 occurrence and three million dollars (\$3,000,000) in the aggregate.

17 (3) Submits proof of a valid workers' compensation policy  
18 covering its affiliated home care aides. The proof shall consist of  
19 the policy number, the effective and expiration dates of the policy,  
20 and the name and address of the policy carrier.

21 (4) Provides the department, upon request, with a complete list  
22 of its affiliated home care aides, and proof that each satisfies the  
23 requirements of Section 1796.34.

24 (5) The owner or owners of the home care organization pass a  
25 background examination, as required pursuant to Section 1796.34.

26 (6) The applicant does not have any outstanding fees or civil  
27 penalties due to the department.

28 (b) The department shall issue a *domestic* home care *aide* referral  
29 ~~agency organization~~ license to a *domestic* home care *aide* referral  
30 ~~agency organization~~ applicant that satisfies the requirements set  
31 forth in this chapter, including all of the following:

32 (1) Files a complete *domestic* home care *aide* referral ~~agency~~  
33 ~~organization~~ application, including the fees required pursuant to  
34 Section 1796.50.

35 (2) Submits proof of general and professional liability insurance  
36 in the amount of at least one million dollars (\$1,000,000) per  
37 occurrence and three million dollars (\$3,000,000) in the aggregate.

38 (3) Submits evidence of compliance with the bond requirements,  
39 in accordance with Section 1812.503 of the Civil Code.

1 (4) The owner or owners of the *domestic* home care *aide* referral  
2 ~~agency organization~~ pass a background examination, as required  
3 pursuant to Section 1796.34.

4 (5) The applicant does not have any outstanding fees or civil  
5 penalties due to the department.

6 SEC. 11. Section 1796.39 of the Health and Safety Code is  
7 amended to read:

8 1796.39. (a) A licensee shall renew the home care organization  
9 license or *domestic* home care *aide* referral *organization* license  
10 every two years.

11 (b) Renewal shall be conditioned upon the licensee doing both  
12 of the following:

13 (1) Submitting a complete renewal application form and payment  
14 of fees, both of which shall be postmarked on or before the  
15 expiration of the license.

16 (2) Continuing to satisfy the requirements set forth in this  
17 chapter, and cooperating with the department in the completion  
18 of the renewal process.

19 (c) Failure of the licensee to cooperate may result in the  
20 withdrawal of the license renewal application. “Failure to  
21 cooperate” means that the information described in this chapter  
22 and in any rules and regulations promulgated under this chapter  
23 has not been provided, or not provided in the form requested by  
24 the department, or both.

25 SEC. 12. Section 1796.40 is added to the Health and Safety  
26 Code, immediately following Section 1796.39, to read:

27 1796.40. (a) A *domestic* home care *aide* referral-~~agency~~  
28 *organization* shall be separately licensed.

29 (b) Nothing in this chapter shall prevent a licensee from  
30 obtaining more than one *domestic* home care *aide* referral-~~agency~~  
31 *organization* license or obtaining a *domestic* home care *aide*  
32 referral-~~agency~~ *organization* license in addition to other licenses  
33 issued by the department, or both.

34 SEC. 13. Section 1796.41 of the Health and Safety Code is  
35 amended to read:

36 1796.41. (a) A home care organization licensee and a *domestic*  
37 home care *aide* referral-~~agency~~ *organization* licensee shall do both  
38 of the following:



1 (1) Post its license and business hours in its place of business  
2 in a conspicuous location, visible both to clients and affiliated  
3 home care aides.

4 (2) Report any suspected or known adult abuse as required by  
5 Section 15630 of the Welfare and Institutions Code and suspected  
6 or known child abuse as required by Sections 11164 to 11174.3,  
7 inclusive, of the Penal Code. A copy of each suspected abuse report  
8 shall be maintained and available for review by the department  
9 during normal business hours.

10 (b) In addition to the requirements of subdivision (a), a home  
11 care organization licensee shall do both of the following:

12 (1) Maintain and abide by a valid workers' compensation policy  
13 covering its affiliated home care aides.

14 (2) Maintain and abide by an employee dishonesty bond,  
15 including third-party coverage, with a minimum limit of ten  
16 thousand dollars (\$10,000).

17 (c) In addition to the requirements of subdivision (a), a *domestic*  
18 home care aide referral ~~agency~~ organization shall ~~comply~~ do both  
19 of the following:

20 (1) Comply with the bond requirements included in Section  
21 1812.503 of the Civil Code.

22 (2) *Inform, both orally and in writing, a prospective customer*  
23 *seeking a referral of an independent home care aide of the*  
24 *disclosures required pursuant to Section 1812.5095 of the Civil*  
25 *Code.*

26 SEC. 14. Section 1796.42 of the Health and Safety Code is  
27 amended to read:

28 1796.42. (a) Home care organizations that employ affiliated  
29 home care aides and home care referral agencies that refer  
30 registered home care aides shall ensure the home care aides are  
31 cleared on the home care aide registry before placing the individual  
32 in direct contact with clients. In addition, the home care  
33 organization or *domestic* home care aide referral ~~agency~~  
34 *organization* shall do all of the following:

35 (1) Ensure any staff person, volunteer, or employee who has  
36 contact with clients, prospective clients, or confidential client  
37 information that may pose a risk to the clients' health and safety  
38 has met the requirements of Section 1796.23 before being hired.

39 (2) Require home care aides to demonstrate that they are free  
40 of active tuberculosis disease, pursuant to Section 1796.45.

1 (3) A home care organization shall immediately notify the  
2 department when the home care organization no longer employs  
3 an individual as an affiliated home care aide.

4 (b) This section shall not prevent a licensee from requiring a  
5 criminal record clearance of any individual exempt from the  
6 requirements of this section, provided that the individual has client  
7 contact.

8 SEC. 15. Section 1796.44 of the Health and Safety Code is  
9 amended to read:

10 1796.44. (a) A home care organization licensee shall ensure  
11 that, prior to providing home care services, an affiliated home care  
12 aide shall complete the training requirements specified in  
13 subdivisions (b) and (c). A *domestic home care aide referral agency*  
14 *organization* shall ensure, prior to that person being referred to a  
15 client, that a registered home care aide demonstrate proficiency  
16 as provided in subdivision (d).

17 (b) An affiliated home care aide shall complete a minimum of  
18 five hours of entry-level training prior to presence with a client,  
19 as follows:

20 (1) Two hours of orientation training regarding his or her role  
21 as caregiver and the applicable terms of employment.

22 (2) Three hours of safety training, including basic safety  
23 precautions, emergency procedures, and infection control.

24 (c) In addition to the requirements in subdivision (b), an  
25 affiliated home care aide shall complete a minimum of five hours  
26 of annual training. The annual training shall relate to core  
27 competencies and be population specific, which shall include, but  
28 not be limited to, the following areas:

29 (1) Clients' rights and safety.

30 ~~(2) How to provide for and respond to a client's Activities of~~  
31 ~~daily living needs, including how to provide for and respond to a~~  
32 ~~client's daily needs.~~

33 ~~(3) How to detect, report, and prevent, and detect abuse and~~  
34 ~~neglect.~~

35 ~~(4) How to assist Assisting a client with personal hygiene and~~  
36 ~~other home care services: hygiene.~~

37 ~~(5) If transportation services are provided, how to safely~~  
38 ~~transport a client.~~

39 *(5) Safely transporting clients, if transportation services are*  
40 *provided by the registered home care aide.*

1 (6) *Infection control.*

2 (7) *Basic safety precautions.*

3 ~~(d) A registered~~ (1) *An independent home care aide who is*  
4 *being referred by a domestic home care aide referral agency*  
5 *organization shall annually complete a proficiency exam that*  
6 *includes all of the following topics:*

7 ~~(1)~~

8 (A) *Clients' rights and safety.*

9 ~~(2)~~

10 (B) *Activities of daily living, including how to provide for and*  
11 *respond to a client's daily needs.*

12 ~~(3)~~

13 (C) *How to detect, report, and prevent abuse and neglect.*

14 ~~(4)~~

15 (D) *Assisting clients with personal hygiene.*

16 ~~(5)~~

17 (E) *Safely transporting clients, if transportation services are*  
18 *provided by the registered home care aide.*

19 ~~(6)~~

20 (F) *Infection control.*

21 ~~(7)~~

22 (G) *Basic safety precautions.*

23 (2) *An independent home care aide who does not complete the*  
24 *proficiency exam shall not be eligible for referral to prospective*  
25 *clients.*

26 (e) *The entry-level training and annual training on*  
27 *department-approved job-related topics described in subdivisions*  
28 *(b) and (c) may be completed through an online training program.*

29 ~~(f) The proficiency examination required pursuant to subdivision~~  
30 ~~(d) may be administered by an online service or through a written~~  
31 ~~examination administered by the home care referral agency.~~

32 ~~(g)~~

33 (f) *A registered home care aide who possessed possesses a*  
34 *current and valid certification from the State Department of Public*  
35 *Health as a Certified Nurse Assistant or Certified Home Health*  
36 *Aide is exempt from the examination requirement of subdivision*  
37 *requirements of subdivisions (c) and (d).*

38 SEC. 16. Section 1796.45 of the Health and Safety Code is  
39 amended to read:

1 1796.45. (a) An individual hired to be an ~~affiliated~~ *independent*  
2 home care aide on or after January 1, 2015, or a registered home  
3 care aide entering into an agreement with a *domestic* home care  
4 aide referral ~~agency~~ *organization* after January 1, 2016, shall be  
5 submitted to an examination 90 days prior to employment or the  
6 effective date of the agreement or within seven days after  
7 employment or the effective date of the agreement to determine  
8 that the individual is free of active tuberculosis disease.

9 (b) For purposes of this section, “examination” means a test for  
10 tuberculosis infection that is recommended by the federal Centers  
11 for Disease Control and Prevention (CDC) and that is licensed by  
12 the federal Food and Drug Administration (FDA) and, if that test  
13 is positive, an X-ray of the lungs. The aide shall not work as a  
14 registered ~~or affiliated~~ home care aide unless he or she obtains  
15 documentation from a licensed medical professional that there is  
16 no risk of spreading the disease.

17 (c) An affiliated home care aide whose employment with a home  
18 care organization began before January 1, 2015, shall submit to  
19 the examination described in subdivision (a) before July 1, 2015.

20 (d) After submitting to an examination, a ~~registered or affiliated~~  
21 home care aide whose test for tuberculosis infection is negative  
22 shall be required to undergo an examination at least once every  
23 two years. Once a ~~registered or affiliated~~ home care aide has a  
24 documented positive test for tuberculosis infection that has been  
25 followed by an X-ray, the examination is no longer required.

26 (e) After the examination, a ~~registered or affiliated~~ home care  
27 aide shall submit, and the home care organization or *domestic*  
28 home care aide referral ~~agency~~ *organization* shall keep on file, a  
29 certificate from the examining practitioner showing that the  
30 ~~registered or affiliated~~ home care aide was examined and found  
31 free from active tuberculosis disease.

32 (f) The examination is a condition of initial and continuing  
33 employment with the home care organization. The examination is  
34 also a condition of a registered home care aide’s initial and  
35 continuing agreement with a *domestic* home care aide referral  
36 ~~agency~~ *organization*. The ~~registered or affiliated~~ home care aide  
37 shall pay the cost of the examination.

38 (g) A ~~registered or affiliated~~ home care aide who transfers  
39 employment from one home care organization to another or a  
40 registered home care aide entering into an agreement with a

1 *domestic home care aide* referral-~~agency~~ *organization* shall be  
2 deemed to meet the requirements of subdivision (a) or (c) if the  
3 ~~registered or affiliated~~ home care aide can produce a certificate  
4 showing that he or she submitted to the examination within the  
5 past two years and was found to be free of active tuberculosis  
6 disease, or if it is verified by the home care organization previously  
7 employing him or her or by the *domestic home care aide* referral  
8 ~~agency~~ *organization* that previously had an agreement with him  
9 or her that the home care organization or *domestic home care aide*  
10 referral-~~agency~~ *organization* has a certificate on file that contains  
11 that showing.

12 SEC. 17. Section 1796.50 is added to the Health and Safety  
13 Code, to read:

14 1796.50. (a) A *domestic home care aide* referral-~~agency~~  
15 *organization* licensee shall pay the following fees:

16 (1) A 24-month initial license fee, as prescribed by the  
17 department in an amount sufficient to cover the reasonable costs  
18 of administering the program, for a new *domestic home care aide*  
19 referral-~~agency~~ *organization* licensee not currently licensed to  
20 provide home care services in the state.

21 (2) A two-year renewal fee, as determined by the department  
22 in an amount sufficient to cover the reasonable costs of  
23 administering the program, based on the number of office locations  
24 operated by the licensee providing registered home care aides to  
25 clients.

26 (3) Other reasonable fees as prescribed by the department  
27 necessary for the administration of this chapter.

28 (b) The fees collected shall be deposited into the Home Care  
29 Fund pursuant to subdivision (b) of Section 1796.47.

30 SEC. 18. Section 1796.51 of the Health and Safety Code is  
31 amended to read:

32 1796.51. In order to carry out the provisions of this chapter,  
33 the department may establish procedures for the receipt,  
34 investigation, and resolution of complaints against home care  
35 organizations and *domestic home care aide* referral-~~agencies~~  
36 *organizations*.

37 SEC. 19. Section 1796.52 of the Health and Safety Code is  
38 amended to read:

39 1796.52. (a) The department may review and, if it determines  
40 necessary, investigate complaints filed against home care

1 organizations or *domestic* home care *aide* referral—agencies  
2 organizations regarding violations of this chapter or any rules or  
3 regulations promulgated under this chapter.

4 (b) The department shall verify through random, unannounced  
5 inspections that a home care organization or *domestic* home care  
6 *aide* referral—agency organization meets the requirements of this  
7 chapter and the rules and regulations promulgated under this  
8 chapter.

9 (c) An investigation or inspection conducted by the department  
10 pursuant to this chapter may include, but is not limited to,  
11 inspection of the books, records, or premises of a home care  
12 organization or *domestic* home care *aide* referral—agency  
13 organization. ~~A home care organization or home care referral~~  
14 ~~agency's~~ An organization's refusal to make records, books, or  
15 premises available shall constitute cause for the revocation of the  
16 ~~home care organization or home care referral agency's~~  
17 ~~organization's~~ license.

18 (d) Other than maintaining the home care registry, the  
19 department shall have no oversight responsibility regarding  
20 registered home care aides.

21 SEC. 20. Section 1796.53 of the Health and Safety Code is  
22 amended to read:

23 1796.53. A duly authorized officer, employee, or agent of the  
24 department may, upon presentation of proper identification, enter  
25 a home care organization or *domestic* home care *aide* referral  
26 ~~agency~~ organization during posted business hours, with or without  
27 advance notice, to secure compliance with, or to prevent a violation  
28 of, any provision of this chapter or any provision promulgated  
29 under this chapter.

30 SEC. 21. Section 1796.55 of the Health and Safety Code is  
31 amended to read:

32 1796.55. (a) A home care organization or *domestic* home care  
33 *aide* referral—agency organization that operates in violation of any  
34 requirement or obligation imposed by this chapter or any rule or  
35 regulation promulgated under this chapter may be subject to the  
36 fines levied or licensure action taken by the department as specified  
37 in this chapter.

38 (b) When the department determines that a home care  
39 organization or *domestic* home care *aide* referral—agency  
40 organization is in violation of this chapter or any rules or

1 regulations promulgated under this chapter, a notice of violation  
2 shall be served upon the licensee. Each notice of violation shall  
3 be prepared in writing and shall specify the nature of the violation  
4 and the statutory provision, rule, or regulation alleged to have been  
5 violated. The notice shall inform the licensee of any action the  
6 department may take under this chapter, including the requirement  
7 of a plan of correction, assessment of a penalty, or action to  
8 suspend, revoke, or deny renewal of the license. The director or  
9 his or her designee shall also inform the licensee of rights to a  
10 hearing under this chapter.

11 (c) The department may impose a fine of up to nine hundred  
12 dollars (\$900) per violation per day commencing on the date the  
13 violation was identified and ending on the date each violation is  
14 corrected, or action is taken to suspend, revoke, or deny renewal  
15 of the license, whichever comes first.

16 (d) The department shall adopt regulations establishing  
17 procedures for notices, correction plans, appeals, and hearings.

18 SEC. 22. Section 1796.61 of the Health and Safety Code is  
19 amended to read:

20 1796.61. ~~(a) The provisions of this chapter that apply to~~  
21 ~~registered and affiliated home care aides and, to home care~~  
22 ~~organizations, and to domestic home care aide referral~~  
23 ~~organizations shall become operative on January 1, 2015 2016.~~

24 ~~(b) (1) The provisions of this chapter that apply to home care~~  
25 ~~referral agencies shall become operative on January 1, 2016.~~

26 ~~(2) A home care referral agency applicant that submits an~~  
27 ~~application prior to January 1, 2016, shall be authorized to provide~~  
28 ~~registered home care aides to clients without meeting the~~  
29 ~~requirements of Section 1796.45 until July 1, 2016.~~

30 ~~(3) The applicant described in paragraph (2) shall meet all the~~  
31 ~~requirements of this chapter no later than July 1, 2016.~~

32 SEC. 23. Section 1796.63 of the Health and Safety Code is  
33 amended to read:

34 1796.63. The department shall adopt, amend, or repeal, in  
35 accordance with Chapter 3.5 (commencing with Section 11340)  
36 of the Government Code, any reasonable rules, regulations, and  
37 standards as may be necessary or proper to carry out the purpose  
38 and intent of this chapter and to enable the department to exercise  
39 the powers and perform the duties conferred upon it by this chapter,  
40 not inconsistent with any of the provisions of any statute of this

1 state. Notwithstanding the rulemaking provisions of the  
2 Administrative Procedure Act (Chapter 3.5 (commencing with  
3 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
4 Code), the department may implement and administer this chapter  
5 through written directives, without taking regulatory action, subject  
6 to the limitations provided in subdivision (b).

7 (a) The department shall post any proposed rules promulgated  
8 under this section on its public Internet Web site no later than 90  
9 calendar days prior to the effective date of the proposed rule, which  
10 shall also include notification to the public regarding how members  
11 of the public may comment, including the date on which those  
12 comment must be received in order to be considered by the  
13 department.

14 (b) The department's authority to implement and administer  
15 this section through written directives shall expire no later than 12  
16 months after the written directives are promulgated and posted on  
17 a public Internet Web site, or upon the effective date of regulations  
18 promulgated in accordance with the Administrative Procedure Act  
19 (Chapter 3.5 (commencing with Section 11340) of Part 1 of  
20 Division 3 of Title 2 of the Government Code), whichever occurs  
21 sooner.

22 SEC. 24. No reimbursement is required by this act pursuant to  
23 Section 6 of Article XIII B of the California Constitution because  
24 the only costs that may be incurred by a local agency or school  
25 district will be incurred because this act creates a new crime or  
26 infraction, eliminates a crime or infraction, or changes the penalty  
27 for a crime or infraction, within the meaning of Section 17556 of  
28 the Government Code, or changes the definition of a crime within  
29 the meaning of Section 6 of Article XIII B of the California  
30 Constitution.